



The Comptroller General
of the United States

Washington, D.C. 20548

Re: [unclear] - [unclear]

Decision

Matter of: David E. Nyman - Transportation of Private Vehicle

File: B-226426

Date: January 19, 1988

DIGEST

An employee retiring from an overseas post who had a new automobile shipped directly to New York City from the overseas factory without delivery to him at his last overseas post is not entitled to government reimbursement of costs he incurred to transport the automobile from New York City to his residence since he did not purchase it for use in a foreign country, as required to qualify for reimbursement under the Foreign Affairs Manual.

DECISION

Mr. David E. Nyman requested his former employing agency, the Federal Aviation Administration, Department of Transportation, to reimburse him for costs he incurred to transport a new automobile between New York City and his residence in Minnesota. The car was ordered while he was serving at his last duty station in Belgium prior to his retirement. The car was shipped directly from the overseas factory to New York. In this decision we hold that the costs may not be reimbursed because Mr. Nyman did not use the vehicle in Belgium.^{1/}

Mr. Nyman was stationed in Brussels, Belgium, before his retirement on June 28, 1983. Upon his retirement, he was authorized to travel from Brussels, Belgium, to Saint Paul, Minnesota. His travel orders were amended to authorize shipment at government expense of a new 1983 Volvo automobile. Mr. Nyman had contracted for the purchase of the Volvo in Brussels. He says that he had arranged to pick up the car in Brussels and then drive it to Antwerp for shipment to New York. However, based on

^{1/} Mr. James D. Wallace, Authorized Certifying Officer, Federal Aviation Administration, requested our decision.

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advice from the U.S. Embassy that this was not necessary, he arranged for its shipment from the factory in Sweden to New York City free of cost. He is claiming the costs of transporting the car from there to Saint Paul. It appears that the United States Embassy in Brussels believed that he had taken possession and ownership of the Volvo in Brussels when it authorized its shipment from New York to Saint Paul at government expense.

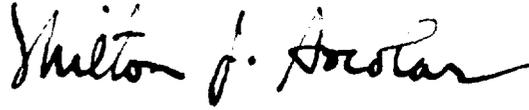
When the Department of State's Dispatch Agency responsible for processing the shipment examined the sale and transportation arrangements, it determined that Mr. Nyman was not entitled to reimbursement of the Volvo transportation costs. The reason it gave was the statement in title 6 of the Foreign Affairs Manual (FAM), section 168.4, which provides that the government pays for the cost of transporting the retiring employee's effects, including a privately owned automobile, only if the effects were "the property of the employee or family member while the employee was on active duty." Since the Volvo was not delivered to Mr. Nyman in Brussels, the Dispatch Agency apparently did not consider that it was his personal property while he was on active duty.

Based on the limited evidence before us, we agree that Mr. Nyman may not have met the requirement of 6 FAM § 168.4, since he has not clearly shown that the vehicle was his property while he was on active duty. However, regardless of whether the automobile was Mr. Nyman's personal property in Belgium before retirement, his claim must be rejected for another reason. An employee's foreign-made, foreign-purchased motor vehicle may only be shipped at government expense in the situations expressly set forth in 6 FAM § 165.9-1. Among its other requirements, subsection e of that section provides for shipment only if the motor vehicle was "purchased for use in a [foreign] country." Since Mr. Nyman ordered shipment of the Volvo directly from the factory to the United States, he did not meet the requirement that the vehicle be purchased for use in Belgium. Consequently, he was not entitled to have it shipped at government expense from New York to Minnesota.

Mr. Nyman states that he had an understanding with the United States Embassy in Brussels that the Volvo could be shipped from New York to Minnesota at government expense. Such an understanding, however, does not afford a basis for paying Mr. Nyman's claim. It has long been held that such a mistake does not legally obligate the government to confer a benefit not allowed by law and regulation.

Utah Power and Light Company v. United States, 243 U.S.
389 (1917); Joseph Pradarits, 56 Comp. Gen. 131 (1976).

Accordingly, we sustain the employing agency's denial of the claim.

for 
Comptroller General
of the United States